

1 IDAPA 44 - OFFICE OF ADMINISTRATIVE RULES
2 44.01.02 - RULES GOVERNING RULE WRITING IN IDAHO
3 DOCKET NO. 25/0101.1201
4 PUBLIC HEARING
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9 TRANSCRIPT OF THE PUBLIC INPUT SECTION OF THE MEETING
10 HAD ON THE 29TH DAY OF NOVEMBER, 2012, AT 7:53 PM
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14 OROFINO, IDAHO
15 RIVER'S EDGE BEST WESTERN
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21 RECEIVED
22 DEC 06 2012
23 STATE OF IDAHO
24 OUTFITTERS & GUIDES BOARD

25 REPORTED BY: KEITH M. EVANS, RPR, CSR NO. 655

K & K REPORTING (208) 743-1380
kkreport@wildblue.net

 **COPY**

1 BE IT REMEMBERED that the above-entitled matter
2 came on for hearing at the hour of 7:53 p.m., November 29th, 201
3 in the Conference Room of the River's Edge Best Western,
4 City of Orofino, County of Clearwater, State of Idaho.

5 (Thereupon the following oral proceedings
6 were had as follows, to-wit:)

7 (Presentation made by Mr. Richard Gardner and
8 Mr. Jake Howard at 7:15 p.m., not reported.)

9 (Public input session began at 7:53 p.m.)

10 MR. LEO CRANE: There's one part if you go back
11 up there and explain a little more where you say that
12 the guide cannot do any calling or anything like that.

13 MR. GARDNER: Yes.

14 MR. LEO CRANE: I need that clarified.

15 MR. GARDNER: Right here. Jake, my suggestion
16 when you read this -- when you read this say, you know,
17 that they'll be limited to do this. This is what they
18 can do, but then say, but they shall not include, you
19 know.

20 MR. HOWARD: Okay.

21 MR. LEO CRANE: Go over that one again.

22 MR. GARDNER: So guiding is going to be limited
23 to escorting clients to and from the field, to setting
24 up the blinds and taking them down, cleaning and
25 processing game, meals, and lodging, but they are not

1 going to be actively in the field with a client.

2 MR. HOWARD: During the hunt.

3 MR. GARDNER: And the idea is that this increases
4 access and keeps it more affordable.

5 MR. LEO CRANE: Under what conditions are those?
6 Is that on -- on limited outfitted areas? I think
7 that's going to be a --

8 MR. ALEX IRBY: That will be specific and
9 specified so --

10 MR. HOWARD: Well, you need to explain why.

11 MR. LEO CRANE: I'm trying to figure out --
12 really, why not? You're doing everything else, so why
13 not let the guide call in the game. And what if those
14 clients don't know how? What if they've never been
15 turkey hunting or waterfowl hunting? How are they
16 going to do it? Are they going to sit out there in the
17 blind and not know what to do?

18 MR. HOWARD: Well, I think the first thing is
19 that we need to sort out where we're not going to allow
20 any outfitting at all, and then we need to sort out
21 where it's going to be limited. And then we need to
22 sort out where it can be provided without limitations
23 and guiding be allowed.

24 MR. LEO CRANE: Okay. Is this on private land or
25 is this going to be --

1 MR. GARDNER: Yes.

2 MR. HOWARD: It could be on private land or on
3 public land.

4 MR. LEO CRANE: That's on private land. Well,
5 number one, I've always thought that the private
6 landowner should not be restricted anyway. I mean,
7 it's his land. He should be able to say what goes on.

8 MR. HOWARD: The concern came out of the working
9 group, and the concern was related to competition for
10 the wildlife.

11 MR. LEO CRANE: I know.

12 MR. GARDNER: And it was also -- there was an
13 expression in many of the comments about the
14 affordability and is hunting going to become something
15 that's only available for the well-to-do.

16 MR. HOWARD: That's the other thing is it also
17 keeps the price down.

18 MR. LEO CRANE: Well, yeah, just go back to the
19 same thing. What if that client is out here and never
20 has waterfowl hunted? How is he going to know how to
21 call those birds in? How is he going to know what to
22 do in there? How is he going to identify what birds
23 they are? If there's birds that are not legal to
24 shoot, and he does shoot them without a guide being
25 there, he's going to be in trouble.

1 MR. HOWARD: If he shoots them and there's not a
2 guide there why would he be in trouble?

3 MR. ALEX IRBY: This is waterfowl.

4 MR. GARDNER: This is focusing on waterfowl, I
5 think, isn't it?

6 MR. LEO CRANE: Yeah, that's pretty much on
7 waterfowl. You could do both.

8 MR. GARDNER: It says these sections pertain to
9 turkey and waterfowl hunting.

10 MR. LEO CRANE: It could be both turkey and
11 waterfowl, yeah. What if he's never seen a turkey
12 before? But the guide could still be there with him
13 all the time, but he just can't do anything.

14 MR. GARDNER: No, he can't be there.

15 MR. LEO CRANE: He can't even be in the blind
16 with him?

17 MR. GARDNER: Right.

18 MS. DEE CRANE: To me the way I understand that
19 is a new hunter comes along, he's trying to learn the
20 ropes, he hires a guide to take him, and they go out,
21 but then there's too many limits on that guide he can't
22 teach him what he needs to know. So he's -- that's
23 handicapping that person.

24 MR. GARDNER: So this -- this rule is not well
25 designed for a beginning hunter is kind of what I'm

1 hearing you say.

2 MR. LEO CRANE: You have to be an experienced
3 hunter to be able to do this.

4 MR. GARDNER: You're right. I think you're
5 right. I think part of this came in response to a lot
6 of comments we heard from hunters who said we know how
7 to hunt. We just need access, blah, blah, blah.

8 MR. LEO CRANE: You're going to get people coming
9 out here from other parts of the country, maybe they've
10 never hunted.

11 MS. DEE CRANE: Another aspect along those lines
12 that I see is the health and safety and welfare of that
13 client and the other people around. If that hunter
14 goes out there and does something that he should not
15 do, where does the responsibility lie? Most people are
16 going to look at it -- the outfitter, the guide, and
17 say you did a poor job -- a bad job guiding your
18 client, you know. So there's an issue there to look
19 at, too, if that guide can't oversee what the client is
20 doing, that's not very well designed.

21 MR. GARDNER: I'm not sure even the word guiding
22 is appropriate here. You're being allowed to outfit.
23 You're not being allowed to guide, is that --

24 MR. HOWARD: Uh-huh (affirmative.)

25 MS. DEE CRANE: In the general public's eyes they

1 are kind of one in the same.

2 MR. LEO CRANE: That would be no different than
3 the landowner almost just charging the trespass fee.

4 MR. HOWARD: Bingo.

5 MR. GARDNER: Okay. Any other comments?

6 MR. ALEX IRBY: That's intrigued me because
7 what -- and I understand, but what does really limit an
8 area? Let's take turkey because we're more involved in
9 turkey in this area than waterfowl.

10 MR. GARDNER: So what -- the limited areas I
11 think are intended to be limited in areas where there
12 is a high potential for conflict with non-outfitted
13 hunters is that --

14 MR. HOWARD: I'm sorry. I was thinking about
15 Leo's earlier comment.

16 MR. ALEX IRBY: That's an interesting detail.

17 MR. GARDNER: See, we think it's where there's
18 high --

19 MR. ALEX IRBY: If a private landowner has a
20 thousand acres, and he really doesn't want anybody
21 outside, he wants to control what's happening, I guess,
22 that would be a limited area, if he so desired that.
23 Is that correct or is it -- it wouldn't be. It would
24 be opposite of that because -- but if he's not allowed
25 so -- I think it's kind of confusing.

1 MR. GARDNER: The appropriate input for these
2 workshops would be that that person should suggest that
3 that is an area that fits under the non-limited
4 areas -- other outfitted areas, and you should make
5 your case. We have a large enough land area that other
6 hunters are excluded so it's not an issue. So it's not
7 a place where there's going to be conflicts.

8 MR. ALEX IRBY: Who has the say on that as much
9 as the Fish and Game and the Idaho Board? Does the
10 landowner themselves have --

11 MR. GARDNER: They can propose it. It's up to
12 the Board to dispose into those three categories of
13 non-outfitted, limited outfitted, or other.

14 MR. HOWARD: I think if you go back -- go back to
15 that limited, non-limited business up there. So, we're
16 talking about like river reaches. We're talking about
17 lakes or we're talking about geographical areas. And,
18 you know, I would say that the limited outfitted area
19 might be, say, hypothetically -- this is totally
20 hypothetically. It's a mile from the Clearwater River
21 on all lands lying to the -- one mile up off the
22 Clearwater River or -- and the Snake River. It could
23 be a geographic area between the Snake River and
24 Highway 30, okay. And so it would be an area where
25 there's been some documented biological concern, you

1 know, based on the information there, or it could be
2 some other reasons, lot of hunting pressure, too much
3 public access. You know, that's what we're looking
4 for. We're looking for some geographical explanation
5 of areas that would be problematic that we would put
6 some limits on.

7 MR. GARDNER: Another occurs to me that the north
8 side of Lake Coeur d'Alene along the interstate.

9 MR. HOWARD: Right.

10 MR. LEO CRANE: Limited outfitted areas I think
11 are going to cause you more problems than they're going
12 to do good. These ought to be a non-outfitted area or
13 outfitted area. A limiting outfitter area is just
14 going to cause a lot of illegal things to happen.
15 You're going to have guys that are going to get in
16 trouble because of that limited thing. I think you
17 just ought to eliminate those areas.

18 MR. GARDNER: Okay.

19 MR. LEO CRANE: Because where they're limited
20 you're just asking for trouble.

21 MR. GARDNER: It sounds like you're understanding
22 the reason why some areas ought to be off the board.

23 MR. LEO CRANE: Yeah, sure. There ought to be
24 some areas that are off the board. There always has
25 been and there always should be. But that limited is

1 just a real gray area where people are going to get in
2 trouble.

3 MR. GARDNER: Okay.

4 MR. HUNSUCKER: I think in the work group that
5 came up because areas along the Snake River south of
6 Boise and even Canyon County where there's areas of
7 high impact hunting, a lot of people, but you still had
8 160 acres or a thousand acres of ground off of the
9 river that you could do limited hunting there and not
10 totally impact the bird and flight lines and
11 population.

12 MR. LEO CRANE: So, you're sending hunters out
13 there that --

14 MR. HUNSUCKER: They're going to have to be
15 experienced hunters or they won't be able to do it.

16 MR. GARDNER: You could provide, say, goose pits
17 a couple of miles off the water that are on totally
18 private ground in a very controlled setting.

19 MR. LEO CRANE: People like that that are going
20 to go on those hunts do not know the area, do not
21 know -- probably don't know the birds. You're going to
22 get a few that might, but you just -- I think you're
23 just asking for a lot of trouble.

24 MR. HOWARD: There's another concern here that we
25 haven't talked about. One of the most resilient issues

1 in this whole thing is coming from the sportsman's
2 group and, frankly, it's a concern worth considering.
3 It's their fear of outfitters leasing up large segments
4 of private land and limiting any other access to that
5 land, and so by creating these limited areas it will be
6 one of those areas where we would allow some
7 opportunity. The three percent of the total moving
8 average and it would encourage -- it would encourage
9 public opportunity without significant leasing. So,
10 you know, that leasing -- that leasing factor is a
11 concern.

12 MR. LEO CRANE: Well, it always has been, but I
13 still say you're going to have a lot more trouble with
14 limited areas like that because those guys that bought
15 a license, they came out here, they found a blind, or
16 they could let this outfitter take them to a blind.
17 Well, and they don't know how to call in birds. The
18 birds are going to be here the next day, they're going
19 to offer that guide an extra two or \$300 to be there to
20 call in some birds, and then that outfitter is going to
21 be in trouble if he gets caught. It's just like some
22 of the rules like the Forest Service has on the boating
23 on the Lochsa. The floaters on those boat trips cannot
24 fish because they're with an outfitter. They bought a
25 fishing license, but they can't fish. They can come

1 back the next day, drive up by themselves, and walk out
2 and fish. As long as they're with an outfitter they
3 can't fish. And it's causing a lot of problems, and
4 it's the same thing this will do.

5 MS. DEE CRANE: It sort of sets them up to fail,
6 in other words.

7 MR. LEO CRANE: It sets up for a lot of
8 activities that are going to be -- turnout to be
9 illegal.

10 MR. GARDNER: Okay. I think --

11 MR. ALEX IRBY: I agree with some of that.
12 Because it just -- but, now, I would like an example of
13 turkey. When it would happen with turkey. See, with
14 waterfowl I get closer to it faster. With the turkey I
15 have --

16 MR. LEO CRANE: Yeah, I can see it more with
17 turkey -- waterfowl than with the turkey.

18 MR. ALEX IRBY: So, if I could have an example
19 with turkey. Let's say, as an example myself. There's
20 six of us been hunting some private land for years, and
21 we pay a little money. But suddenly under the new rule
22 they can do better, the landowner can. So, can we
23 protest and call it limited because he can say, you're
24 not going to come on my land anymore? So I get
25 confused about turkey.

1 MR. GARDNER: What would be the biological or
2 sociological reason for limiting turkey?

3 MR. ALEX IRBY: More sociological I think than
4 biological with turkeys. And so we, the board, and if
5 we have a petition, say, from three or four private
6 hunters on somebody's land and -- but the landowner
7 vetoes that or goes the opposite direction we, the
8 Board, then has to make a decision on that land; is
9 that correct? It would seem so.

10 MR. HUNSUCKER: The landowner is either going to
11 apply for an outfitter license or not, or he's going to
12 elect just simply to have a trespass fee.

13 MR. ALEX IRBY: Well, that's the new rule so we
14 don't have to have a trespass fee under the new rule.

15 MR. HUNSUCKER: Well, the landowner can still
16 charge a trespass fee.

17 MR. ALEX IRBY: We've changed that.

18 MR. GARDNER: So, what I'm hearing, Alex, you are
19 challenging us that there -- it's possible there may
20 not be areas where turkey outfitting is --

21 MR. ALEX IRBY: Limited.

22 MR. GARDNER: -- or banned, off limits.

23 MR. ALEX IRBY: I think it's something not unlike
24 what Leo and Dee were saying on the guides. It's just
25 what's out there that we may or may not have asked

1 ourselves, and we get it into rule-making, and then
2 it's hard to abide by that rule-making.

3 MR. GARDNER: So, what I'm thinking I'm hearing
4 from you, then, is that in the case of turkey the
5 limits are going to have more to do with the
6 three percent of hunters or hunter -- I believe, it was
7 hunters in the case of turkey and hunter days in the
8 case of waterfowl originally. And then they have an
9 acreage limit of 160 acres so they have to meet those
10 requirements.

11 MR. HUNSUCKER: Well, all of the -- where we
12 define those areas. When we go through that list it
13 may shake out that there is no limited turkey areas.

14 MR. ALEX IRBY: Well, that's what I'm --

15 MR. GARDNER: That's what he's asking.

16 MR. HUNSUCKER: Until we get public input, Leo,
17 you can tell us what areas you think should be banned
18 from hunting and what private grounds should be limited
19 and what should be open access and full-on guiding.

20 MR. GARDNER: Can you think, Leo, of any places
21 where the turkey outfitting should be limited because
22 of potential conflicts or high use? I mean, the only
23 places I can think of would be adjacent to a piece of
24 public land or adjacent to a road or something.

25 MR. LEO CRANE: Housing development or something.

1 MR. GARDNER: Yes, or a residential or some kind
2 of development.

3 MR. LEO CRANE: I can't think of any particular
4 place right around here but --

5 MR. GARDNER: Okay, so I think -- I mean, a good
6 point has been raised that maybe there's a difference
7 here between turkey outfitting and waterfowl
8 outfitting.

9 MR. HOWARD: But I think his points are well
10 taken. I mean, there may be reasons not to limit
11 turkey or waterfowl. That's a legitimate point.

12 MR. LEO CRANE: I think that limited one is
13 really going to cause you problems.

14 MR. GARDNER: Okay. Any other reactions by
15 anyone else?

16 MS. DEE CRANE: I have a question on No. 2, right
17 at the very first page, outfitting on private land,
18 part A. The private landowners who only charge fees
19 for access to their land or water shall not be required
20 to be licensed as an outfitter. What stops them from
21 totally taking -- or who manages that? What stops them
22 from totally taking people hunting like an outfitter
23 does and providing all the services and taking a lot of
24 money. He might be doing the same thing --

25 MR. GARDNER: That would be called illegal

1 outfitting.

2 MS. DEE CRANE: Yes, but what's stopping him from
3 doing that?

4 MR. GARDNER: What this is doing for the first
5 time is making it clear that if they only charge a
6 trespass fee and they do not provide any other services
7 except access to their land, they can do that without
8 an outfitter's license.

9 MS. DEE CRANE: So, their trespass fee could be
10 sky high, for instance, to cover all the services they
11 provide.

12 MR. GARDNER: No. If they're providing any other
13 services they're an outfitter.

14 MS. DEE CRANE: But they don't say they're
15 providing --

16 MR. GARDNER: It says, who only charge fees for
17 access to their land.

18 MS. DEE CRANE: Yes. I'm just thinking of along
19 the lines, guys, of who's going to control it and take
20 care of it and get these people that do things wrong
21 because of the way it's written who's going to manage
22 that?

23 MR. GARDNER: It's important to read the B side
24 here. Private landowners who provide outfitted
25 facilities or services shall be required to comply with

1 the outfitters' law.

2 MS. DEE CRANE: I understand that but it --

3 MR. LEO CRANE: Well, it's just like everything
4 else. It's going to have to be enforced, but there's
5 no way to enforce all that.

6 MS. DEE CRANE: That's what I'm trying to get to.

7 MR. GARDNER: Is that any different than the
8 current situation, let me ask you that? That's pretty
9 much the way it is right now.

10 MR. LEO CRANE: That hasn't changed. That part
11 really hasn't changed.

12 MR. HOWARD: Right now we're up a creek without a
13 paddle. This at least gives us a paddle to paddle the
14 boat.

15 MR. LEO CRANE: Well, I think you may be in for
16 more trouble.

17 MR. GARDNER: Because?

18 MR. LEO CRANE: Because of that limited one
19 because --

20 MR. GARDNER: You're going back to the limited
21 one?

22 MR. LEO CRANE: Yeah.

23 MR. GARDNER: Okay. Any other different points?
24 I'm sorry, I don't know -- you're a board member also;
25 is that right?

1 MR. SNOW: I'm not a board member, but I'm an
2 employee of the Board.

3 MR. LEO CRANE: He's the ones that's supposed to
4 enforce that.

5 MR. GARDNER: Okay. So, not appropriate to
6 provide input tonight. Okay, I understand. Alex?

7 MR. ALEX IRBY: I think this has made it much
8 easier for a landowner, these rules, to make decisions
9 than it has been before.

10 MR. GARDNER: So, from your perspective it
11 clarifies the position of the landowner and the choices
12 that are in front of that landowner?

13 MR. ALEX IRBY: See, that 2A.

14 MR. HOWARD: And 2B.

15 MR. ALEX IRBY: And 2B. Well, and then you go to
16 the next one.

17 MR. GARDNER: They can do a trespass fee. They
18 can do a very simple club with no services, or they can
19 become an outfitter.

20 MR. ALEX IRBY: And then if you turn it to the
21 guide, the one that says that you couldn't do any
22 calling, we get back to limited again.

23 MR. GARDNER: Back up to --

24 MR. ALEX IRBY: So, you know, if I had 1200 acres
25 and -- if I had 160, and I wanted to hunt on it I would

1 apply for an outfitter's license, and I probably would
2 get it if I met the criteria.

3 MR. LEO CRANE: Can we go back to Jake's example
4 of the guy that has the 100 acres in the middle that
5 you could limit him to -- limited outfitting. There
6 you're interfering with his private land.

7 MR. ALEX IRBY: The number two makes it very easy
8 for a private landowner there.

9 MR. LEO CRANE: Yeah, but you can't, according to
10 Jake, because in between the two areas that are being
11 heavily used they'll only allow on this 100 acres this
12 guy owns limited hunting.

13 MR. ALEX IRBY: Well, I think that's going to be
14 a part of the criteria.

15 MR. HOWARD: The applications will still be
16 handled on a case-by-case basis. We're just -- this
17 just gives the Board some parameters on how to make a
18 decision on some of those individual license
19 applications.

20 MR. ALEX IRBY: In a way C2 is where part of the
21 private landowners and our committee was headed.

22 MR. GARDNER: Yeah.

23 MR. ALEX IRBY: So they didn't end up with a
24 bunch of restrictions that they had to do themselves.

25 MR. GARDNER: And, by the way, I just wanted to

1 point out, Leo, you're talking about the beginning
2 hunter needs more guiding. I would point out that if
3 it's a young beginning hunter that could fall under
4 this exception, but if it's an adult beginning hunter
5 --

6 MR. LEO CRANE: What's the age limit?

7 MR. GARDNER: Yeah, that's a good question.

8 MR. LEO CRANE: Everybody is young compared to
9 me.

10 MR. GARDNER: If they're old enough -- so, see,
11 if you're my age and I've never shot a turkey, then I
12 could maybe fit under the exception, too.

13 MR. LEO CRANE: Well, there's a big difference
14 between the turkey hunting and the waterfowl because
15 there's some species that aren't legal to shoot.

16 MR. GARDNER: I see what you're saying when a
17 pass shooting and making the --

18 MR. LEO CRANE: Yeah, and here comes something
19 that's -- maybe some exotic duck that shouldn't be shot
20 or something that's endangered species and the hunter
21 shoots it because he doesn't have a guide there to tell
22 him not to shoot it.

23 MR. GARDNER: To what degree is that covered in
24 hunter education? Not really, or is it? Okay. I
25 think you've raised a good point here, Leo. So we've

1 got that one down. Is there anything -- any other
2 different points? Alex, anything else?

3 MR. ALEX IRBY: No. I like the presentation.

4 (Public input concluded at 8:19 p.m.)

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K & K REPORTING (208) 743-1380
kkreport@wildblue.net

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2 44.01.02 - RULES GOVERNING RULE WRITING IN IDAHO
3 DOCKET NO. 25/0101.1201
4 PUBLIC HEARING
5

6 CERTIFICATE OF TRANSCRIPTION

7 The undersigned does hereby certify that he
8 correctly and accurately transcribed and typed the foregoing
9 transcript from the stenographic notes of the hearing which
10 was reported on the 29th day of November, 2012, in the
11 above-entitled action or proceeding.

12 Dated this 30th day of November, 2012.
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18 Keith M. Evans, RPR, CSR NO. 655
Court Reporter

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